



CITIZEN REVIEW COMMITTEE MEETING

Community Oversight of Portland Police Bureau

City of Portland / City Auditor
Independent Police Review (IPR)
Citizen Review Committee (CRC)

Minutes

Date: Wednesday, October 4, 2017 (meetings are typically held the first Wednesday of each month)

Time: 5:30 pm * *Please Note: agenda times are approximate*

Location: **Room C, Portland Building**. 1120 SW 5th Ave. Portland, OR 97204

Present: Kiosha Ford, Candace Avalos, Andrea Chiller, Kristin Malone, Daniel Schwartz, Roberto Rivera, Julie Falk, Anika Bent-Albert, Lauren King, Jeff Bell, Clifford Bacigalupi, Jason Pearce, Rochelle Silver, Dan Handelman, Regina Hannon, Kalei and Ted Luyben, Herchel Soles, Pamela Fitzsimmons

AGENDA

5:30 pm—5:40 pm Introductions and Welcome (CRC Chair Kristin Malone)
(Approved of September 6, 2017 meeting minutes)

5:40 pm – 6:00 pm Director's Report (IPR Director Constantin Severe)

- Chair Malone asked Captain Bell about the status regarding case file 2016-C-0374
 - The case will be sent to the RU Manager today or tomorrow.
- Chair Malone asked Assistant Director how far out the appeals are scheduled for?
 - We are currently had 3 appeals lined up for the next several months.

6:00 pm – 6:15 pm Chair's Report (CRC Chair Kristin Malone)

- Chair Malone met with Mayor Wheeler and his Policy Advisor Nicole Grant and they had a discussion regarding the Standard of Review.
- Chair Malone went to see Sean King's speech. Ms. Ford and Mr. Schwartz were also there..
- Chair Malone read through the COCL draft report.
- Mr. Rivera attended NACOLE Conference this past month and thanked the Auditor and IPR for sending him there. He was surprised by the fact that Mexico, and Jamaica sent some of their officers and investigators to the Conference.
- Mr. Rivera will be sending his note from the Conference to the Committee.
- Chair Malone asked Mr. Rivera if there's any best practice that he learned from the Conference?
 - I attended this panel discussion regarding how to safeguard the LGBTQ community in prison. The panel had a discussion on the PREA Act 2008. They showed us several videos on things that that prison officials in California have done to address issues facing the LGBTQ in prison.

6:15 pm – 8:15 pm **Case File Review/Appeal Hearing:** 2016-C-0414/ 2017-X-0006

Appellant alleged Officer A failed to make an arrest involving a domestic violence assault on her. Appellant also alleged Officer A was unprofessional when conducting his domestic violence investigation.

- Assistant Director Bent Albert provided IPR summary of the investigation:
 - IPR received an online complaint on December 11, 2016 and it was assigned to Investigator Nomura.
 - IPR Investigator Nomura obtained the police report as well as VCAD from the incident which happened on December 10.
 - IPR Investigator Nomura conducted an intake interview with the Appellant on December 12, 2016.
 - The case then being forwarded to IA for a full investigation.

- Chair Malone asked Assistant Director Bent-Albert about when did the Appellant made a request to mediate?
 - It was after the disposition of the complaint.
- Captain Bell provided IA summary of the investigation:
 - The case was assigned to IA Investigator Lori Smith on February 8, 2016. The first thing she did was reviewing the photos taken during the initial investigation by the Officer. She also pulled the 911 audio call.
 - Investigator Smith re-interviewed the Appellant to get some additional information as well as the Appellant's apartment manager who was a witness to some of the incident.
 - Investigator Smith tried several times to contact the Appellant's husband, but she was not able to get in touch with him.
 - Investigator Smith also interviewed the 2 involved Officers.
- Chair Malone asked Captain Bell, about the additional photograph?
 - Appellant did let investigator Smith know there were additional photographs that was taking the day after, but IA did not receive those photographs.
- Assistant Director Bent-Albert made a comment that Investigator Smith did requested for the photographs to be sent over via email, but they were never emailed.
- Dr. Silver, the Appellant APA made a comment she asked the Appellant to send those photographs in after meeting with her. The Appellant also asked to mediate with the Officer and he refused.
- Ms. Ford asked Captain Bell if there was a domestic violence report written for the incident?
 - It is possible that it wasn't written. I will have to check
- Lt. Pearce, the RU Manager in this case made a comment the Officer did write a report documenting the domestic dispute between both sides. He also gave the Appellant domestic violence information resources that Officer required to give.
- Assistant Director Bent-Albert made a comment to Lt. Pearce that Ms. Ford was trying to clarify if the report writing requirements were satisfied based on the information at the time.
 - Yes.
- Ms. Chiller asked Captain Bell about the additional photographs submitted by the Appellant. Were those photos seen by IA investigator Lori Smith, or the RU Manager?
 - No they were submitted after the investigation has been completed.
- Lt. Pearce made a comment there were numerous photographs taken by the Officer that night.
- Chair Malone made a comment without sending the case back so the RU Manager can see these photos, the Committee cannot consider them as part of the case.
- Ms. Avalos asked Assistant Director Bent-Albert about the photos that were attached with the appeal letter. were they the missing photos this case?
 - I wouldn't say they are "missing". They were never provided to IA.
- Ms. Ford raised some concerns about whether the RU Manager received all the materials needed to make his decision on the findings as well as the special domestic violence report that should've been written.
- Lt. Pearce made a comment not all domestic related crimes are mandatory arrest. It has to rise to a certain level. In this case, it was a domestic violence harassment. It is not a mandatory arrest crime.
- Ms. Ford asked Lt. Pearce if physical touching can be considered as harassment?
 - Yes.
- The Appellant made a comment that based on the RU Manager's comment, it sounds like her husband didn't hit her hard enough for the police to make an arrest.
- Chair Malone made a comment she is having hard time moving the case forward to the Appeal Hearing since there were multiple photos taken by the Appellant that have not been seen by the RU Manager.
- Ms. Avalos asked Assistant Bent-Albert if there's a precedence for what happens when evidences are submitted after the case has been closed?
 - It is up to the Committee to decides whether to send the case back and have those photos be a part of the investigation.
- Ms. Falk made a comment the additional photos could've influenced the RU Manager's findings decision.
- The Appellant made a comment she tried to send the photos to Investigator Smith, but she doesn't know why it didn't show up in her sent box.
- Mr. Rivera asked the Appellant how many officers were present that night?

- Two.
- Mr. Rivera asked Captain Bell how officers are trained to interview and capture evidence in a domestic violence case?
 - Its varies from case by case basis. If there are signs of a disturbance inside the house like a broken lamp, over turn furniture's, etc. That is something that the officer would take pictures of. If a person is claimed that he/she been punched then the officer is encouraged to take pictures of.
- Ms. Falk asked the Appellant how many officers were taking photos?
 - It was just Officer B.
- Mr. Rivera asked the Appellant who interviewed her?
 - Officer B interviewed me Officer A walked passed me acknowledged me and then went to talk to my husband.
- Several members of the Committee raise concerns about the family abuse supplemental report not being written.
- Captain Bell made a comment the Family abuse supplemental report have a lot of check boxes. For example, one of the check boxes asked if either party own a weapon or have access to weapon. The domestic violence report was developed in conjunction with Portland State University in order to identify factors so that they can rate these cases on a lethality scale.
- Ms. Falk asked if it is possible that the RU Manager reviewed this document, but the Committee didn't?
- Assistant Director Bent-Albert made a comment she had the copy of the report written that night and it was a police report.
- The Committee had a discussion regarding should the Committee votes to send the case back? Some ideas being brought up were: Interviewing the husband to find out his side of the story, photos that were sent after the investigation was closed, photos that the Officer should've taken, whether if the Officer completed a domestic violence report, if not then he should be debriefed about it, the Officer should've asked the Appellant if she acted in self-defense when she scratched her husband's neck.
- Public comments:
 - Mr. Handelman made several comments:
 - IPR or IA could've subpoena the husband.
 - The Committee should take a look at the domestic violence form so see what it looks like.
 - Both Officers who responded to this domestic violence call were males while it should be a male and a female.
 - The Appellant made a comment if the Officer did fill out a domestic violence form then it is worth looking into since it will show that the Officer did his job correctly.
- Ms. Falk made a motion to move the case forward to the Appeal Hearing. This was seconded by Mr. Schwartz:
 - Ms. Ford: NO, the case should be sent back for additional investigation.
 - Ms. Avalos: YES.
 - Ms. Chiller: NO, the domestic violence report needs to be looked at to see if the officer filled out one.
 - Chair Malone: YES.
 - Mr. Schwartz: YES.
 - Ms. Falk: YES.
 - Mr. Rivera: YES.
- The Appellant provided her testimony regarding her case:
 - The Appellant and her husband got into an argument and he picked her up, pushed her against the wall, and strangled her with both hands. She responded by scratching his neck.
 - She got away and ran into the bedroom and the husband followed inside and pick her up by the neck again and pushed her against the bed.
 - She screamed and told him she is going to call the police. She was making her way out to the patio area to make the call to 911, her husband followed her out, grabbed her wrist to try and pulled her back.
 - When both officers arrived, she stood outside with Officer B while Officer A interviewed her husband. She recalled hearing Officer A and B discussion of her incident as "just some drama".
 - Officer A asked the Appellant what happened tonight and whether if she spits on her husband?
 - Officer A asked the Appellant if she received any bruises from tonight and she pointed the bruises out to the Officer, and his response was "that didn't happen tonight, did it?"

- The Appellant called her landlord to come over and be her witness.
- The Officers are supposed to be neutral, but both the officers were joking and laughing while escorting her husband out of the apartment.
- After her husband left, Officer A gave her information about domestic violence.
- The Appellant later realized that her husband took the key to the apartment and car. She feared that since he didn't get arrested, he could've come back later during the night.
- The Appellant's APA made some comments on her behalf:
 - The Appellant was in fear for her life and Officer A didn't pay attention to her at all and went to the husband instead. Determine based from what the husband said what should take place.
 - Officer B was the one who interviewed the Appellant about what happened that night.
 - Officer A did not protect the Appellant by arresting the husband and chose to let the husband leave with the Appellant's keys.
 - Officer A should've taken this case more seriously instead of saying "it's just a bunch of drama".
- Lt. Pearce provided the RU Manager explanations of the findings:
 - Regarding to allegation 1, based on the domestic violence directive, the crime that was committed here was harassment which is not a mandatory arrest. Both parties had marks on them. Domestic violence directive also had no requirement regarding who should the officer interviews first. The Officer did talk to both party. There was not enough evidence the Officer saw at the time to say that it was an assault. The Appellant and her husband both admitted to pushing each other. It is not a mandatory arrest unless there are injuries from the pushing. In this case, there's no way to prove the injuries were caused by pushing. There was not enough evidence based on Investigator Smith's interview with both Officers, the Appellant, and the police report to substantiate the allegation.
 - The debriefing part in this case is where the Officer can learn from this and improve upon.
 - Regarding to allegation 2, the Appellant claimed Officer A was laughing while conducting interview with her husband. Investigator Smith asked the Witness specifically if she thinks the Officer was unprofessional. The Witness said, "I didn't think that they were rude, but they were kind of short on the situation".
- Ms. Falk asked Lt. Pearce about an apart in the transcript where the Witness describing Officer A laughing when she suggested about taking the husband off the lease.
 - Signing someone off the lease is a civil issue. They had that discussion when the Officers were leaving after conducting the interviews. Someone's perception of the Officer may or may not have been laughing does rise to a level of violating the directive.
- Ms. Chiller made a comment the fact that they were laughing during an emotionally charged incident while the Appellant was still present brings up questions of the Officer's lack of judgement and professionalism.
- Chair Malone made a comment it seems like there was a point where Lt. Pearce made a comment about how it was great to have a Witness who can give a better parameter regarding whether someone is professional or not and then the Witness started talking about how she thought Officer A was unprofessional. Both the Appellant and the Witness said the Officer was being unprofessional.
- Lt. Pearce made a comment the allegation was specific about Officer A being unprofessional while conducting a domestic violence investigation. The context of the Officer discussing a civil matter with the Witness while leaving the apartment doesn't fit the allegation.
- Ms. Avalos made a comment perception is important when it comes to professionalism. She was wondering what is Lt. Pearce's perception regarding this situation?
 - To me, I see a separation between the two. there was a domestic violence investigation and then this at the end when they were leaving.
- Ms. Falk asked Lt. Pearce if he thinks the domestic investigation was consider as over when they are done asking questions and that was why it wasn't a violation of the directive.
 - No. To me the simple act of an Officer laughing doesn't rise to a level where the Officer violates a directive.
- Ms. Falk made a comment that the Witness described the Officer laughing was "a bit" unprofessional and the allegation doesn't specify how unprofessional.
- Ms. Chiller also agreed with Ms. Falk that the Officer laughing within the present of the Appellant was unprofessional.

- Lt. Pearce made a comment that he can understand people's perception and that is something he can discuss with the Officer during the debriefing stage.
- Ms. Rivera made a comment according the Appellant, the Officer was laughing while talking to the husband inside the apartment.
- Lt. Pearce made a comment one person said that she thought she heard it while Officer B stated that he did not hear Officer A laughing.
- Mr. Rivera made a comment he went on a ride along before and the Officer he wrote with took every call he encountered very seriously and did not laugh and were sensitive about each situation, but it doesn't seem like the Officer acted professionally in this case.
- Ms. Avalos asked Lt. Pearce how does he balance between different situations since the Appellant said she heard the laugh when Officer A was interviewing her husband and then the Witness came later after the incident and she also heard the Officer's laughed?
 - In the heart of this domestic violence investigation, you have one person said yes, they heard while the other person said they didn't hear. The Witness heard the laugh as they were leaving the apartment, the domestic violence investigation is essentially over so to me, so there's a separation there. The phrase of "a little bit" unprofessional does not rise to a level of violating of the directive in a context of this situation.
- Chair Malone made a comment that she can see why the RU Manager can make the finding of Not Sustained based on conflicting statements. Ms. Ford, Ms. Falk and Ms. Chiller disagreed. The Directive stated that Officers have to strive to be at the highest level of level of professionalism. A bit unprofessional is still unprofessional.
- Ms. Chiller made a comment to LT. Pearce Officer A stated that there's no evidence that the Appellant was strangle.
 - The Officer did ask the Appellant about her losing consciousness and her not able to breathe because she stated that she was strangled.
- Ms. Falk asked Lt. Pearce if there's a difference between strangulation and choking?
 - Strangulation is what the crime is called.
- Ms. Chiller asked Lt. Pearce if officers are trained to recognize bruising might not show right away?
 - Yes. Keep in mind the Appellant admitted that the bruising from her stay at the hospital.
- The Appellant's APA made a comment that there's also a potential for internal bruising as well. The Officer in this case did not take that into consideration or following up with the Appellant and see if she has any issues.
- Ms. Chiller asked Lt. Pearce if it is a normal practice for Officer to follow up with the domestic violence victim?
 - Yes. Any domestic violence case gets followed up with family services division.
- The Appellant made a comment that no one follow up with her. She also has literature that talk about how bruises don't show up right away after a strangulation.
- Chair Malone asked Lt. Pearce how he was so sure that this was a harassment instead of an assault?
 - Essentially, we have to look into what evidence you have in front of you. There were pushing and shoving, but there's no injuries.
- Ms. Chiller made a comment she doesn't see the Officer asking the Appellant if she was in imminent danger.
- The Appellant made a comment she was scared for her life when she found out at 11 PM at night that her husband got the key to the house.
- Mr. Falk asked the Appellant if she told the Officers that she was scared for her life?
 - They should've known because I was shaking and crying.
- Ms. Chiller asked Lt. Pearce if there's any training or protocol that Officers received in this type of situation to determine if a person is in imminent/ serious injury?
 - I couldn't tell you what training Officers being provided now, but Officers gone through basic and academy as well as being assigned with a Training Officer for the first year to 15 months.
- Mr. Schwartz asked the Appellant if either Officer asks her if she was imminent danger?
 - No.
- Ms. Chiller asked the Appellant if she told the Officer about her scratching her husband's neck?
 - Yes.
- Ms. Chiller made a comment that she can't understand why there's so much emphasis on the husband's injury even though it was a self-defense.

- Mr. Falk asked Lt. Pearce if scratches can be used as evidence that an assault had occurred and that the Appellant was in imminent danger?
 - The scratches were the only evidence that an assault occurred and that was on him. We also don't have the statement from the husband.
- Several Committee members had a debate on whether the Officer had probable causes to arrest the husband. Committee members argued the fact that the Appellant scratching her husband's neck show that she was scared for her life.
- Public comments:
 - Ms. Luyben made a comment she worked with domestic violence victims in the past and back then, a person can file a criminal complaint and have the other person arrested. The Officer should've taken the case more seriously.
 - Mr. Handelman made several comments:
 - Questions the Investigator can ask the husband if the officer was laughing should the Committee sends the case back.
 - There should be a debriefing added into allegation 2.
 - The fact that Officer B did not hear the laugh sounds like he was trying to protect his partner
 - Officers should receive more gender bias training.
 - Specialists who are trained to handle domestic violence should've been handling this case instead of regular patrol officer.
 - Mr. Soles made a comment he was very disturbed by the Officer laughing. Domestic abuse is a very serious issue in this country.
- The Appellant made some rebuttal comments:
 - She thanked the Committee for the discussion on her case tonight.
 - The husband took the key to her car even though the car is not under his name.
 - She doesn't trust the police to do their job.
 - She is upset at the Officer was not doing his job correctly. She doesn't hold it against him personally and just want him to do his job right.
- Appellant's APA made some rebuttal comments:
 - What happened to the Appellant was a miscarriage of justice since the Officer failed to protect her.
 - The Appellant offered to mediate with the Officer and he refused.
- Ms. Ford made a comment they both support the Committee sending the case back for additional investigation so the RU Manager can look at the additional photos taken by the Appellant and to also look into the domestic violence report as well as a possibility of adding another allegation failed to write a report.
- Chair Malone made a comment she doesn't support sending the case back.
- Ms. Chiller expressed concerns about the Bureau not doing a follow up visit with the Appellant after the incident.
- Captain Bell made a comment due to lack of resources, not all domestic violence cases get a follow up.
- Mr. Schwartz made a motion to affirmed Bureau's findings regarding to allegation 1. This was seconded by Chair Malone:
 - Ms. Ford: Abstained, the case should've sent back for additional investigation to flush out issues addressed by Committee members.
 - Ms. Avalos: YES, there's not enough evidence to conclude that the Officer could've make the arrest
 - Ms. Chiller: YES, based on the standard of review
 - Chair Malone: YES, based on the standard of review
 - Mr. Schwartz: YES, based on the standard of review
 - Ms. Falk: NO, the Officer violated Bureau directive
 - Mr. Rivera: NO, the Officer could've arrested the husband
- Ms. Chiller made a motion to challenged Bureau's findings regarding to allegation 2. She proposed the finding of Sustained. This was seconded by Ms. Falk:
 - Ms. Ford: YES, the Officer laughing was unprofessional even if it the Witness described it as "a bit".
 - Ms. Avalos: YES, based on the Appellant and Witness testimony.
 - Ms. Chiller: YES, based on the Witness testimony.

- Chair Malone: NO, based on the standard of review, a reasonable person can come to the finding of Not Sustained.
- Mr. Schwartz: YES, based on the Witness statement. Officer should not be laughing within earshot of the Appellant who had experienced domestic violence.
- Ms. Falk: YES, the officer was unprofessional based on the Witness testimony.
- Mr. Rivera: YES, given the statement of the Witness and the Appellant.

8:15 pm—8:35 pm Workgroup updates: Please provide the following information —

- 1) Brief summary of the goals and objectives of your workgroup
- 2) Date of last meeting
- 3) Brief summary of the work done at your last meeting
- 4) Next scheduled meeting
- 5) Main topic to be discussed/addressed at the next meeting
- 6) Any assistance from IPR or CRC needed to achieve your goals

ACTIVE WORKGROUPS

1. Outreach Workgroup (5 min.)

MISSION STATEMENT: The Outreach Workgroup engages the community to raise awareness about the Citizen Review Committee (CRC), gather concerns about police services and accountability, and identify issues for the CRC to address. Following up with appellants and others community requests will supplement current work group tasks. Additionally, outreach committee members will serve as point for ongoing communications with IPR, the City, the Bureau, community members and/or act as the face of CRC.

Chair / Members: Neil Simon, and Roberto Rivera

IPR staff: Irene Konev, Community Outreach Coordinator

2. Recurring Audit (5 min.)

MISSION STATEMENT: The Recurring Audit Workgroup seeks to improve accountability of IPR and the Portland Police Bureau by reviewing closed cases to ensure procedures, policies and protocols are followed and will recommend improvements, if necessary.

Chair / Members: Vanessa Yarie, Bridget Donegan, Daniel Schwartz and Jeff Bissonnette

3. Policy and Protocols (5 min.)

MISSION STATEMENT: The Policy and Protocols Workgroup examines CRC jurisdiction and the standard of review and recommends action to the CRC. Additionally, the workgroup will review community letters/input on policy issues and police bureau issues and present findings to full CRC.

Chair: Kiosha Ford / Members: Julie Falk Julie Ramos, and Kristin Malone

- Ms. Falk and Ford are trying to meet with Commissioner Eudaly
- Chair Malone made a comment the Workgroup should try and meet soon.

4. Crowd Control Workgroup (5 min.)

MISSION STATEMENT: The Crowd Control Workgroup examines existing crowd control policies, training, and tactics of the Portland Police Bureau, reviews crowd control best practices, legal standards and other information, and makes appropriate recommendations.

Chair /Members: Michael Luna

- Ms. Avalos would like to join this Workgroup and as well as Outreach.

5. Use of Deadly Force Workgroup (5 min.)

MISSION STATEMENT: The Use of Deadly Force Workgroup examines Portland Police Bureau use of deadly force policies, directives, training and implementation in order to recommend and support any needed change in Portland Police Bureau use of deadly force.

Chair: David Denecke / Members: Rochelle Silver, Kristin Malone and James Young

- The Workgroup will be meeting soon.

8:35 pm —9:00 pm Public comment and wrap-up comments by CRC members

- Mr. Handelman made some comments:
 - The issue of Not Sustained should be called insufficient evidence.
 - It's not that Bureau members shouldn't talk to people. They should talk to people in a professional manner.
 - The RU Manager should've had the case file with him.
 - One of the reason Ms. Ford ended up abstaining because the way the standard of review was written. It should've been written as not supported by the evidence.
 - The Committee should've done a symbolic vote using preponderance of evidence instead of the standard of review.

9:45 pm

Adjournment

To better serve you, a request for an interpreter or assisted listening device for the hearing impaired or for other accommodations for persons with disabilities should be made three (3) days prior to the meeting—please call the IPR main line 823-0146 (or TYY 503-823-6868).

Visit the website for more information regarding the Independent Police Review division, Citizen Review Committee, protocols, CRC meeting schedules, and approved minutes: www.portlandoregon.gov/ipr.

CRC Members:

1. If you know you will not be able to attend a CRC meeting or that you will be missing a significant amount of a meeting, please call or e-mail IPR in advance so that the CRC Chair may be made aware of your expected absence.
2. After this meeting, please return your folder so IPR staff can use it for document distribution at the next CRC meeting.

****Note: agenda item(s) as well as the meeting date, time, or location may be subject to change.***